

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2017

Coram

The Hon'ble Mr. Justice **M.M.SUNDRESH**

Second Appeal No.53 of 2000

R.M.Sundaram .. Appellant

Vs

Assistant Executive Engineer,
Operation and Maintenance (North),
T.N.E.B., Nagapattinam. .. Respondent

Second Appeal filed under Section 100 C.P.C. against the judgment and decree dated 19.12.1996 made in A.S.No.139 of 1996 on the file of the Principal District Judge, Nagapattinam, confirming the judgment and decree passed in O.S.No.31 of 1990 dated 25.09.1995 by the District Munsif, Nagapattinam.

For Appellant .. Mr.V.Raghupathy

For Respondent .. Mr.N.Muthuswami

JUDGMENT

The suit has been laid by the appellant being the plaintiff seeking

a decree for permanent injunction against the respondent/defendant Electricity Board not to erect any electrical post. Both the Courts below declined the relief sought for by the appellant. Aggrieved by the same, the present second appeal has been filed by raising the following substantial questions of law:

(1)Whether the Courts below are correct in holding that the decision rendered by the Division Bench of the High Court, Madras reported in 1995-2 LW 743 is not applicable to the appellant's case?

(2)Whether the Courts below are right in holding that non-appointment of Advocate Commissioner is fatal to the case when the respondent has not proved any document in his favour to substantiate their stand?

(3)Whether the Courts below have properly interpreted Ex.A15 and Rule 3(6)(E) and 6(C) of T.N.E.B. Proceedings dated 21.06.1977 bearing M.S.780?

2.As rightly held by the Courts below, such a suit is not maintainable. Under the Electricity Regulations as well as Telegraphs

Act, sufficient power is available to the Electricity Board to erect electrical post. In such view of the matter, this Court does not find any substantial question of law involved, warranting interference. Accordingly, the second appeal is dismissed. No costs.

13.02.2017

Index:Yes/No
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To

- 1.The Principal District Court,
Nagapattinam.
- 2.The District Munsif Court,
Nagapattinam.

M.M.SUNDRESH, J.

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